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8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA
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11 VIRGINIA REEDER,) Civil No. 07-CV-362-L(LSP)
12 Plaintiff,)
13 v.) **ORDER DENYING PLAINTIFF'S**
14 JOHN KNAPIK dba K/MONT) **EX PARTE APPLICATION TO**
15 CONSTRUCTION, *et al.*,) **SUBMIT GROUP #10 EXHIBITS**
16 Defendants.) **[doc. #49]**

17 On August 7, 2007, plaintiff, appearing *pro se*, filed an “*ex parte* application to submit
18 group #10 exhibits” to defendant Billie Moore’s answer to plaintiff’s first amended complaint.
19 Plaintiff previously attempted to file a “traversal” and “Exhibit #10” to Moore’s answer but the
20 court rejected the document for failing to obtain leave of Court to file a response to the answer.¹
21 [doc. #42].

22 Plaintiff’s current *ex parte* application seeks to have the same exhibits filed that were
23 attached to her stricken “traversal”. The current application contains a memorandum in support
24 of her application that is virtually identical to the “traversal” she attempted to file on July 9,
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26 ¹ The Federal Rules of Civil Procedure do not provide for the filing of a response to
27 an answer: “There shall be a complaint and an answer; No other pleading shall be allowed,
28 except that the court may order a reply to an answer or a third-party answer.” FED. R. CIV. P.
7(a). The Court has not ordered a reply to Moore’s answer and such a reply will not be
permitted here.

1 2007. [doc. #42]. Thus, plaintiff is attempting to get her stricken “traversal” before the Court by
2 filing the present memorandum in support of having certain exhibits filed. This blatant attempt
3 to circumvent the Court’s prior decision to strike the “traversal” amounts to bad faith and is a
4 mischief upon the Court that will not be tolerated. For this reason, plaintiff’s *ex parte*
5 application is denied.

6 Moreover, evidentiary materials should not be presented to the Court given the present
7 procedural posture of the case, *i.e.*, all the defendants have not been served; there has been no
8 early neutral evaluation (“ENE”) or preliminary case management conference (“CMC”) and as a
9 result, no discovery is permitted to be requested absent leave of court; and there are no pending
10 motions that require an evidentiary presentation. Like all litigants in federal court, plaintiff must
11 await the ENE and CMC in order to go forward with this action. The ENE will be set after
12 August 24, 2007 – the previously extended time for plaintiff to effectuate service of process on
13 the remaining unserved defendants. (Order filed July 18, 2007 [doc. #46]). For this reason as
14 well, plaintiff’s *ex parte* application to “submit group #10 exhibits” is denied.

15 Plaintiff attention is again directed to Federal Rule of Civil Procedure 11. (*See* Order
16 filed July 18, 2007 [doc. #46]). As noted in that Order, the purpose of Rule 11 is to “curb
17 baseless filings ‘which abuse the judicial system and burden courts and parties with needless
18 expense and delay.’” (Order at 4 (quoting *Judin v. United States*, 110 F.3d 780, 784 (Fed. Cir.
19 1997)). Plaintiff’s current *ex parte* application is such a filing. Although plaintiff is appearing
20 *pro se*, she is must comply with the Federal Rules of Civil Procedure and the Civil Local Rules.
21 Further frivolous and/or bad faith filings will likely subject plaintiff to monetary and/or other
22 sanctions.

23 Based on the foregoing, **IT IS ORDERED** denying plaintiff’s *ex parte* application to
24 submit group #10 exhibits [doc. #49].

25 **IT IS SO ORDERED.**

26 DATED: August 13, 2007

27 
28 M. James Lorenz
United States District Court Judge

1 COPY TO:

2 HON. LEO S. PAPAS
3 UNITED STATES MAGISTRATE JUDGE

4 ALL PARTIES/COUNSEL
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